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FILED

JAN 29 2016

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY  DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

LEE LOOMIS,

Defendant.

CASE NO. 2:12-cr-315 JAM

PLEA AGREEMENT

DATE: JANUARY 29, 2016
TIME: 1:30 P.M.
COURT: Hon. John A. Mendez

I. INTRODUCTION

A. Scope of Agreement.

The superseding indictment in this case charges the defendant with violations of 18 U.S.C. § 1341 – Mail Fraud (Counts One through Twelve and Twenty-Four through Twenty-Nine) and 18 U.S.C. § 1343 – Wire Fraud (Counts Thirteen through Twenty-Three and Thirty through Fifty). This document contains the complete plea agreement between the United States Attorney’s Office for the Eastern District of California (the “government”) and the defendant regarding this case. This plea agreement is limited to the United States Attorney’s Office for the Eastern District of California and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities.

B. Rule 11(c)(1)(C) Specific Sentence Agreement

The government and the defendant agree that a specific sentence, set forth below in paragraph

VI.C., would be appropriate in this case. Consequently, this plea agreement is being offered to the Court pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure.

Under the provisions of Rule 11(c)(3), the Court may accept or reject the plea agreement, or may defer its decision as to the acceptance or rejection until there has been an opportunity to consider the presentence report. If the Court accepts the plea agreement, the Court will inform the defendant that it will embody in the judgment and sentence the disposition provided for in this plea agreement. If the Court rejects this plea agreement, the Court shall so advise the defendant, allow the defendant the opportunity to withdraw his plea, and advise him that if he persists in a guilty plea the disposition of the case may be less favorable to him than is contemplated by this plea agreement.

II. DEFENDANT'S OBLIGATIONS

A. Guilty Plea.

The defendant will plead guilty to Count Thirteen – Wire Fraud. The defendant agrees that he is in fact guilty of these charges and that the facts set forth in the Factual Basis for Plea attached hereto as Exhibit A are accurate. The defendant agrees that this plea agreement will be filed with the Court and become a part of the record of the case.

The defendant agrees that the statements made by him in signing this Agreement, including the factual admissions set forth in the factual basis, shall be admissible and useable against the defendant by the United States in any subsequent criminal or civil proceedings, even if the defendant fails to enter a guilty plea pursuant to this Agreement. The defendant waives any rights under Fed. R. Crim. P. 11(f) and Fed. R. Evid. 410, to the extent that these rules are inconsistent with this paragraph or with this Agreement generally.

B. Restitution.

The Mandatory Victim Restitution Act requires the Court to order restitution to the victims of certain offenses. The Defendant agrees that his conduct is governed by the Mandatory Restitution Act pursuant to 18 U.S.C. § 3663A(c)(1)(A)(ii) and agrees to pay the full amount of restitution to all victims affected by this offense, including, but not limited to, the victims covered in the factual basis, victims covered in those counts to be dismissed as part of the plea agreement pursuant to 18 U.S.C. § 3663A(a)(3), and other victims as a result of the defendant's conduct for the offenses charged in the

superseding indictment. The amount of restitution will be equal to, or less than, \$50 million.

C. Fine.

The parties agree that no fine is appropriate in this case in light of the substantial restitution.

D. Special Assessment.

The defendant agrees to pay a special assessment of \$100 at the time of sentencing by delivering a check or money order payable to the United States District Court to the United States Probation Office immediately before the sentencing hearing. The defendant understands that this plea agreement is voidable at the option of the government if he fails to pay the assessment prior to that hearing. If the defendant is unable to pay the special assessment at the time of sentencing, he agrees to earn the money to pay the assessment, if necessary by participating in the Inmate Financial Responsibility Program.

E. Violation of Plea Agreement by Defendant/Withdrawal of Plea.

If the defendant, cooperating or not, violates this plea agreement in any way, withdraws his plea, or tries to withdraw his plea (other than pursuant to the provisions of Rule 11(c)(1)(C), this plea agreement is voidable at the option of the government. The government will no longer be bound by its representations to the defendant concerning the limits on criminal prosecution and sentencing as set forth herein. One way a cooperating defendant violates the plea agreement is to commit any crime or provide any statement or testimony which proves to be knowingly false, misleading, or materially incomplete. Any post-plea conduct by a defendant constituting obstruction of justice will also be a violation of the agreement. The determination whether the defendant has violated the plea agreement will be under a probable cause standard.

If the defendant violates the plea agreement, withdraws his plea, or tries to withdraw his plea, the government shall have the right (1) to prosecute the defendant on any of the counts to which he pleaded guilty; (2) to reinstate any counts that may be dismissed pursuant to this plea agreement; and (3) to file any new charges that would otherwise be barred by this plea agreement. The defendant shall thereafter be subject to prosecution for any federal criminal violation of which the government has knowledge, including perjury, false statements, and obstruction of justice. The decision to pursue any or all of these options is solely in the discretion of the United States Attorney's Office.

By signing this plea agreement, the defendant agrees to waive any objections, motions, and

1 defenses that the defendant might have to the government's decision. Any prosecutions that are not
2 time-barred by the applicable statute of limitations as of the date of this plea agreement may be
3 commenced in accordance with this paragraph, notwithstanding the expiration of the statute of
4 limitations between the signing of this plea agreement and the commencement of any such prosecutions.
5 The defendant agrees not to raise any objections based on the passage of time with respect to such
6 counts including, but not limited to, any statutes of limitation or any objections based on the Speedy
7 Trial Act or the Speedy Trial Clause of the Sixth Amendment to any counts that were not time-barred as
8 of the date of this plea agreement.

9 In addition, (1) all statements made by the defendant to the government or other designated law
10 enforcement agents, or any testimony given by the defendant before a grand jury or other tribunal,
11 whether before or after this plea agreement, shall be admissible in evidence in any criminal, civil, or
12 administrative proceedings hereafter brought against the defendant; and (2) the defendant shall assert no
13 claim under the United States Constitution, any statute, Rule 11(f) of the Federal Rules of Criminal
14 Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by
15 the defendant before or after this plea agreement, or any leads derived therefrom, should be suppressed.
16 By signing this plea agreement, the defendant waives any and all rights in the foregoing respects.

17 **F. Forfeiture.**

18 The defendant agrees to forfeit to the United States voluntarily and immediately all of his right,
19 title, and interest to any and all assets subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) and 28
20 U.S.C. § 2461(c). Those assets include, but are not limited to, the following:

- 21 1. Approximately \$133,803.53 in U.S. Currency seized from Washington Mutual Bank,
22 N.A., Account #4420842802, held in the name of Advantage Financial Group Holdings
Management LLC, and
- 23 2. Approximately \$328,495.75 in U.S. Currency seized from Washington
24 Mutual Bank, N.A., Account #4412174338, held in the name of Loomis Wealth
Solutions LLC.

25 The defendant agrees that the listed assets constitute property, real or personal, derived from
26 proceeds traceable to a violation of 18 U.S.C. § 1343 – Wire Fraud.

27 The defendant agrees to fully assist the government in the forfeiture of the listed assets and to
28 take whatever steps are necessary to pass clear title to the United States. The defendant shall not sell,

1 transfer, convey, or otherwise dispose of any of his assets, including but not limited to, the above-listed
2 assets.

3 The defendant agrees not to file a claim to any of the listed property in any civil proceeding,
4 administrative or judicial, which may be initiated. The defendant agrees to waive his right to notice of
5 any forfeiture proceeding involving this property, and agrees to not file a claim or assist others in filing a
6 claim in that forfeiture proceeding.

7 The defendant knowingly and voluntarily waives his right to a jury trial on the forfeiture of
8 assets. The defendant knowingly and voluntarily waives all constitutional, legal and equitable defenses
9 to the forfeiture of these assets in any proceeding. The defendant agrees to waive any jeopardy defense,
10 and agrees to waive any claim or defense under the Eighth Amendment to the United States
11 Constitution, including any claim of excessive fine, to the forfeiture of the assets by the United States,
12 the State of California or its subdivisions.

13 The defendant waives oral pronouncement of forfeiture at the time of sentencing, and any
14 defenses or defects that may pertain to the forfeiture.

15 The defendant agrees to sign a Stipulation for Final Judgment of Forfeiture in *U.S. v.*
16 *Approximately \$133,803.53 in U.S. Currency seized from Washington Mutual Bank, et al.*,
17 2:09-CV-00461-JAM-EFB, forfeiting to the United States all of his right, title, and interest in the seized
18 funds. The stipulation must be signed within 14 days of signing this plea agreement.

19 **G. Asset Disclosure.**

20 The defendant agrees to make a full and complete disclosure of his assets and financial
21 condition, and will complete the United States Attorney's Office's "Authorization to Release
22 Information" and "Financial Affidavit" within five (5) weeks from the entry of the defendant's change
23 of plea. The defendant also agrees to have the Court enter an order to that effect. The defendant
24 understands that this plea agreement is voidable at the option of the government if the defendant fails to
25 complete truthfully and provide the described documentation to the United States Attorney's office
26 within the allotted time.

27 **H. Agreement to Cooperate.**

28 The defendant agrees to cooperate fully with the government and any other federal, state, or local

law enforcement agency, as directed by the government. As used in this plea agreement, "cooperation" requires the defendant: (1) to respond truthfully and completely to all questions, whether in interviews, in correspondence, telephone conversations, before a grand jury, or at any trial or other court proceeding; (2) to attend all meetings, grand jury sessions, trials, and other proceedings at which the defendant's presence is requested by the government or compelled by subpoena or court order; (3) to produce voluntarily any and all documents, records, or other tangible evidence requested by the government; (4) not to participate in any criminal activity while cooperating with the government; and (5) to disclose to the government the existence and status of all money, property, or assets, of any kind, derived from or acquired as a result of, or used to facilitate the commission of, the defendant's illegal activities or the illegal activities of any conspirators.

III. THE GOVERNMENT'S OBLIGATIONS

A. Dismissals.

The government agrees to move, at the time of sentencing, to dismiss without prejudice the remaining counts in the pending superseding indictment. The government also agrees not to reinstate any dismissed count except if this agreement is voided as set forth herein, or as provided in paragraphs II.E (Violation of Plea Agreement by Defendant/Withdrawal of Plea), III.B.3 (Reduction of Sentence for Cooperation), VI.B (Guidelines Calculations), and VII.B (Waiver of Appeal and Collateral Attack) herein.

B. Recommendations.

1. Incarceration Range.

The government is not bound to make any specific recommendation.

2. Acceptance of Responsibility.

The government will recommend a two-level reduction if the defendant clearly demonstrates acceptance of responsibility for his conduct as defined in U.S.S.G. § 3E1.1. This includes the defendant meeting with and assisting the probation officer in the preparation of the pre-sentence report, being truthful and candid with the probation officer, and not otherwise engaging in conduct that constitutes obstruction of justice within the meaning of U.S.S.G § 3C1.1, either in the preparation of the pre-sentence report or during the sentencing proceeding. The government will not recommend the third

1 point under U.S.S.G. § 3E1.1 because it has expended substantial resources preparing for trial.

2 3. Reduction of Sentence for Cooperation.

3 The government agrees to recommend at the time of sentencing that the defendant's
4 sentence of imprisonment be reduced by up to 30% of the applicable advisory sentencing guidelines
5 range, as determined by the Court, if he provides substantial assistance to the government, pursuant to
6 U.S.S.G. § 5K1.1. The defendant understands that he must comply with paragraphs II.H and not violate
7 this plea agreement as set forth in paragraph II.E herein. The defendant understands that it is within the
8 sole and exclusive discretion of the government to determine whether the defendant has provided
9 substantial assistance.

10 The defendant understands that the government may recommend a reduction in his
11 sentence of less than 30% or no reduction at all; depending upon the level of assistance the government
12 determines that the defendant has provided.

13 The defendant further understands that a motion pursuant to U.S.S.G. § 5K1.1 is only a
14 recommendation and is not binding on the Court, that this plea agreement confers no right upon the
15 defendant to require that the government make a § 5K1.1 motion, and that this plea agreement confers
16 no remedy upon the defendant in the event that the government declines to make a § 5K1.1 motion. In
17 particular, the defendant agrees not to try to file a motion to withdraw his guilty plea based on the fact
18 that the government decides not to recommend a sentence reduction or recommends a sentence
19 reduction less than the defendant thinks is appropriate.

20 If the government determines that the defendant has provided further cooperation within
21 one year following sentencing, the government may move for a further reduction of his sentence
22 pursuant to Rule 35 of the Federal Rules of Criminal Procedure.

23 **C. Use of Information for Sentencing.**

24 The government is free to provide full and accurate information to the Court and Probation,
25 including answering any inquiries made by the Court and/or Probation and rebutting any inaccurate
26 statements or arguments by the defendant, his attorney, Probation, or the Court. The defendant also
27 understands and agrees that nothing in this Plea Agreement bars the government from defending on
28 appeal or collateral review any sentence that the Court may impose.

Further, other than as set forth above, the government agrees that any incriminating information provided by the defendant during his cooperation will not be used in determining the applicable guideline range, pursuant to U.S.S.G. § 1B1.8., unless the information is used to respond to representations made to the Court by the defendant, or on his behalf, that contradict information provided by the defendant during his cooperation.

IV. ELEMENTS OF THE OFFENSE

At a trial, the government would have to prove beyond a reasonable doubt the following elements of the offense to which the defendant is pleading guilty, wire fraud in violation of 18 U.S.C. § 1343:

First, the defendant knowingly participated in, devised, or intended to devise a scheme or plan to defraud, or a scheme or plan for obtaining money or property by means of false or fraudulent pretenses, representations, or promises;

Second, the statements made or facts omitted as part of the scheme were material; that is, they had a natural tendency to influence, or were capable of influencing, a person to part with money or property;

Third, the defendant acted with the intent to defraud; that is, the intent to deceive or cheat. While an honest, good faith belief in the truth of specific misrepresentations alleged in the indictment is a defense, the defendant's belief that the victim of the fraud will be paid in the future or will sustain no economic loss is no defense at all; and

Fourth, the defendant used, or caused to be used, an interstate wire communication to carry out or attempt to carry out an essential part of the scheme.

The defendant fully understands the nature and elements of the crimes charged in the superseding indictment to which he is pleading guilty, together with the possible defenses thereto, and has discussed them with his attorney.

V. MAXIMUM SENTENCE

A. Maximum Penalty.

The maximum sentence that the Court can impose is 20 years of incarceration, a fine of \$250,000, a 3 year period of supervised release and a special assessment of \$100. By signing this plea agreement, the defendant also agrees that the Court can order the payment of restitution for the full loss

1 caused by the defendant's wrongful conduct. The defendant agrees that the restitution order is not
2 restricted to the amounts alleged in the specific count to which he is pleading guilty. The defendant
3 further agrees, as noted above, that he will not attempt to discharge in any present or future bankruptcy
4 proceeding any restitution imposed by the Court.

5 **B. Violations of Supervised Release.**

6 The defendant understands that if he violates a condition of supervised release at any time during
7 the term of supervised release, the Court may revoke the term of supervised release and require the
8 defendant to serve up to 2 additional years imprisonment.

9 **VI. SENTENCING DETERMINATION**

10 **A. Statutory Authority.**

11 The defendant understands that the Court must consult the Federal Sentencing Guidelines and
12 must take them into account when determining a final sentence. The defendant understands that the
13 Court will determine a non-binding and advisory guideline sentencing range for this case pursuant to the
14 Sentencing Guidelines and must take them into account when determining a final sentence. The
15 defendant further understands that the Court will consider whether there is a basis for departure from the
16 guideline sentencing range (either above or below the guideline sentencing range) because there exists
17 an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into
18 consideration by the Sentencing Commission in formulating the Guidelines. The defendant further
19 understands that the Court, after consultation and consideration of the Sentencing Guidelines, must
20 impose a sentence that is reasonable in light of the factors set forth in 18 U.S.C. § 3553(a).

21 **B. Stipulations Affecting Guideline Calculation.**

22 The government and the defendant agree that there is no material dispute as to the following
23 sentencing guidelines variables and therefore stipulate to the following Sentencing Guidelines using the
24 2014 version of the Sentencing Guidelines

- 25 1. Base Offense Level: 7
- 26 2. Loss Amount: +22 (based on a loss amount greater than \$20 million but less than
27 \$50 million, which includes a reasonable estimate of the loss amount associated with the
mortgage fraud charges to be dismissed in this case)
- 28 3. Victim-related Adjustments: +4 (based on greater than 50 victims).

4. Sophisticated Means: +2 (based on the offense involving sophisticated means, including the use of multiple shell companies and corporate forms to commit the fraud)
5. Securities Fraud: +4 (based on a violation of securities law by Loomis, who was an investment advisor)
6. Role in the Offense Adjustment: +4 (the defendant was the organizer/leader of the offense conduct involving five or more individuals) and +2 (the defendant abused a position of private trust regarding the investors in the NARAS fund that significantly aided in the commission in the offense).
7. Adjusted Offense Level: 45
8. Acceptance of Responsibility: See paragraph III.B.2 above
9. Criminal History: The parties anticipate, but do not stipulate, that Loomis has a criminal history category of I.
10. Sentencing Range: Based on a the statutory maximum to which the defendant is pleading guilty, the advisory sentencing range in this case is twenty years of incarceration.

C. Specific Sentence Agreement.

The parties agree that the sentence in this case will not exceed eighteen years. Both the government and the defendant are free to recommend any sentence equal to, or less than, eighteen years.

VII. WAIVERS

A. Waiver of Constitutional Rights.

The defendant understands that by pleading guilty he is waiving the following constitutional rights: (a) to plead not guilty and to persist in that plea if already made; (b) to be tried by a jury; (c) to be assisted at trial by an attorney, who would be appointed if necessary; (d) to subpoena witnesses to testify on his behalf; (e) to confront and cross-examine witnesses against him; and (f) not to be compelled to incriminate himself.

B. Waiver of Appeal and Collateral Attack.

The defendant understands that the law gives the defendant a right to appeal his guilty plea, conviction, and sentence. The defendant agrees as part of his plea(s), however, to give up the right to appeal the guilty plea, conviction, and the sentence imposed in this case. The defendant specifically gives up the right to appeal any order of restitution the Court may impose.

Notwithstanding the defendant's waiver of appeal, the defendant will retain the right to appeal if one of the following circumstances occurs: (1) the sentence imposed by the District Court exceeds the

1 statutory maximum; and/or (2) the government appeals the sentence in the case. The defendant
2 understands that these circumstances occur infrequently and that in almost all cases this Agreement
3 constitutes a complete waiver of all appellate rights.

4 In addition, regardless of the sentence the defendant receives, the defendant also gives up any
5 right to bring a collateral attack, including a motion under 28 U.S.C. § 2255 or § 2241, challenging any
6 aspect of the guilty plea, conviction, or sentence, except for non-waivable claims.

7 Notwithstanding the agreement in paragraph III.A above that the government will move to
8 dismiss counts against the defendant, if the defendant ever attempts to vacate his plea(s), dismiss the
9 underlying charges, or modify or set aside his sentence on any of the counts to which he is pleading
10 guilty, the government shall have the rights set forth in Section II.E herein.

11 **C. Waiver of Attorneys' Fees and Costs.**

12 The defendant agrees to waive all rights under the "Hyde Amendment," Section 617, P.L. 105-
13 119 (Nov. 26, 1997), to recover attorneys' fees or other litigation expenses in connection with the
14 investigation and prosecution of all charges in the above-captioned matter and of any related allegations
15 (including without limitation any charges to be dismissed pursuant to this plea agreement and any
16 charges previously dismissed).

17 **VIII. ENTIRE PLEA AGREEMENT**

18 Other than this plea agreement, no agreement, understanding, promise, or condition between the
19 government and the defendant exists, nor will such agreement, understanding, promise, or condition
20 exist unless it is committed to writing and signed by the defendant, counsel for the defendant, and
21 counsel for the United States.

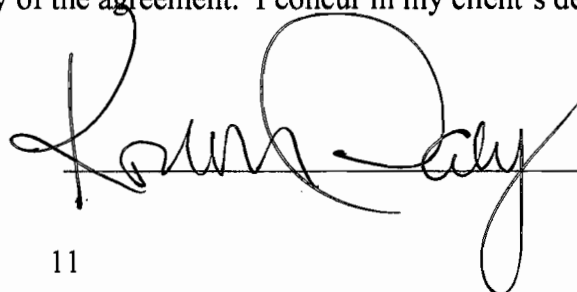
22 **IX. APPROVALS AND SIGNATURES**

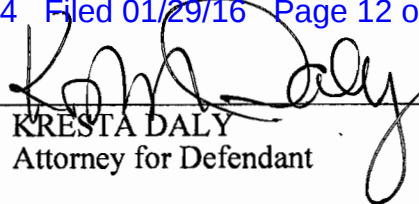
23 **A. Defense Counsel.**

24 I have read this plea agreement and have discussed it fully with my client. The plea agreement
25 accurately and completely sets forth the entirety of the agreement. I concur in my client's decision to
26 plead guilty as set forth in this plea agreement.

27 Dated:

28 *29 January 2016*




KRESTA DALY
Attorney for Defendant

B. Defendant:

I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Sentencing Guidelines that may apply to my case. No other promises or inducements have been made to me, other than those contained in this plea agreement. In addition, no one has threatened or forced me in any way to enter into this plea agreement. Finally, I am satisfied with the representation of my attorney in this case.

Dated: 29 January 2016.


LEE LOOMIS
Defendant

C. Attorney for United States:

I accept and agree to this plea agreement on behalf of the government.

Dated: 1/29/16

BENJAMIN B. WAGNER
United States Attorney


PAUL A. HEMESATH
Assistant United States Attorney

EXHIBIT "A"

Factual Basis for Plea

If this matter proceeded to trial, the United States would establish the following facts beyond a reasonable doubt:

Defendant Lee LOOMIS was the president of an entity called Loomis Wealth Solutions. LOOMIS knowingly engaged in a scheme to defraud by means of false representations to investor-victims, as further set forth below. LOOMIS also did business with and through: Advantage Financial Group Holdings, LLC, Advantage Financial Partners of California, LLC, Advantage Financial Group, Inc., Advantage Financial Partners of Illinois, LLC, Lismar Financial Services, LLC, Advantage Financial Group Holdings Management, LLC, Advantage Financial Partners, LLC, and Advantage Plan Plus, LLC, among others.

Loomis admits he made statements to investors that were untrue and that those investors relied on those statements in deciding to invest their money with him. Loomis maintains he did not intend to permanently deprive any of the victims of their investment funds and intended to make them whole through later investment opportunities.

LOOMIS recruited persons to invest money in the Naras Funds—an entity nominally controlled by LOOMIS's father-in-law, John HAGENER. LOOMIS promised investors:

- (1) the Naras Funds would loan money to third-party borrowers who would pay a 14% rate-of-return;
- (2) the notes would be signed and secured as deeds of trust on residential real property;
- (3) the Naras Funds would generate and pay returns of 12% for investor members (and the fund would make a profit of 2%);
- (4) the financial payment obligations of the Naras Funds were guaranteed by a third party with substantial assets; and
- (5) the Naras Funds were like a liquid, high-yield savings account.

As to count 13, LOOMIS made the representations listed above to an investor, Teresa O., on or in the winter or early spring of 2008, at a seminar in Everett, Washington. In addition, LOOMIS represented to Teresa O. that the Naras Funds were performing well and in good standing.

As a result of LOOMIS's representations, Teresa O. invested \$50,000¹ in the NARAS SECURED FUND #2. To obtain the money, Teresa O. transferred funds from her IRA account, which is what LOOMIS advised her, and others, to do.

On March 26, 2008, Teresa O. wired the \$50,000 to Equity Trust Company (a custodial company), which then wired that amount to a Naras Fund account. Such wire was an interstate communication in that the wire traveled from one state to at least one other state.

¹ Teresa O. actually invested a total of \$173,880 as a result of two transactions. Count 13 pertains to her first investment.

1 LOOMIS thereafter used Teresa O.'s money for purposes other than to make loans to third-party
2 borrowers who would pay a 14% annual rate-of-return.

3 Furthermore:

- 4 (1) despite intending to do so, Loomis did not obtain signed deeds of trust
5 corresponding to down payments (funded by Naras investments) on
6 residential real properties, as was represented to Naras investors in the
7 Private Placement Memorandum;
- 8 (2) the Naras Funds did not generate and pay returns of 12% for investor
9 members;
- 10 (3) at the time Teresa O. invested her money, the monthly financial
11 payment obligations of the Naras Funds were not guaranteed as stated
12 in the Private Placement Memorandum for the Naras Funds; and
- 13 (4) the Naras Funds were not at all liquid, high-yield savings accounts.

14 Nonetheless, Teresa O. received a NARAS SECURED FUND #2 statement showing her
15 principal investment and the 12% return, which was consistent with LOOMIS's promises to Teresa O.
16 The statement was sent through the United States Postal Service and was dated June 1-30, 2008.

17 In fact, Teresa O. lost approximately \$150,000 of her money, and the funds that were repaid to
18 Teresa O. came from new investor funds.

19 LOOMIS was aware that investors' money, including Teresa O. investment, was not being used
20 as promised. LOOMIS would regularly use the Naras Fund to make payments to other investors, and to
21 provide funds for large and continuing payroll obligations and operating expenses of other LOOMIS-
22 controlled entities. Furthermore, LOOMIS and HAGENER and Dawn POWERS (the unofficial Chief
23 Financial Officer of the Naras Funds) conducted frequent cash-flow meetings and exchanged email
24 messages in which Naras Funds account balances were discussed, and it was clear that new investors'
25 money would be required to pay off current obligations—not to be invested as promised.

26 Loomis also knew that no deeds of trust were signed in favor of the Naras Funds on real estate
27 properties in California, Arizona, Florida or Colorado, and no investment paid out a 14% return, as was
28 represented to investors. Nonetheless, investors received Naras Statements indicating a positive 12%
return (14% minus the Naras Funds profit of 2%) through at least July 2008.

While HAGENER held the title of Chief Manager of the Naras Funds and exercised some
independent control of the monies in those funds, LOOMIS was a director of monies invested in the
Naras Funds.

The representation that investor Teresa O.'s money was earning a 12%-return (which was
portrayed in the June Naras Statement, and others) was material to Teresa O. in that the promise of the
12%-return was what influenced her to put her money in the Naras Funds in the first place, and it
influenced her to keep her money in the Naras Funds. In fact, Teresa O.'s money was not actually
secured by property or used in any way that generated a 12% return as of June 2008. Despite intending
to do so, Loomis obtained no deeds of trust corresponding to down payments represented to be security
for investor funds as discussed in the PPM.

1 LOOMIS caused statements to be mailed, which included Naras account information including
2 the representation that accounts were earning 12%. Such a statement was mailed to Teresa O. on or
about July 2008.

3 LOOMIS knew that statements were sent monthly to each investor that contained Naras account
4 information through the United States Postal Service. Specifically, LOOMIS personally directed an
5 employee to prepare the address labels for individual investors and then to take the sealed envelopes to a
U.S. Post Office.

6 LOOMIS induced investors to contribute a total of \$9,130,428 to the Naras Funds (excluding
7 \$1,711,896 sent back to victims). Despite these investments, the Naras Funds and Loomis Wealth
8 Solutions were often in significant arrears with no liquid assets. At the time the search warrant was
served, Naras Fund cash accounts held a total of \$4,913.

9
10 Dated: 29 January 2016


11 LEE LOOMIS
12 Defendant
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